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ATTORNEY-AT-LAW

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&  
BERLIN  
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DIRECT DIAL  
(202)945-6917

December 18, 1996

**VIA Courier**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street  
Room 222  
Washington, D.C. 20554

RECEIVED

DEC 18 1996

Federal Communications Commission  
Office of Secretary

**Re: Notice of Ex Parte Presentation by MFS Communications Company, Inc., in  
CS Docket No. 95-184**

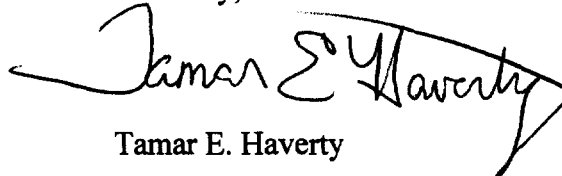
Dear Mr. Caton:

In accordance with § 1.1206(a)(2) of the Commission's Rules, I am filing the original and one copy of this letter as notice that myself and Myra M. Craven, Vice President, Real Estate for MFS Communications Company, Inc. ("MFS"), met with the following officials in the Commission's Cable Services Bureau on December 17, 1996: Meredith Jones, John Logan, JoAnn Lucanik and Alexis Johns. Because the meeting did not end until after 5 pm, we were unable to file the notice of ex parte presentation until the following day.

MFS requested the meeting to discuss the issue of building access and its importance in promoting local competition. During the course of the meeting, we discussed state building access legislation that has been enacted in the states of Connecticut and Texas and proposed building access legislation in Colorado. We also discussed whether or not the Commission has the authority to address telecommunications service providers' building access and inside wiring issues in the instant rulemaking. We distributed handouts at the meeting, copies of which are attached.

If you have any questions or need additional information, please call me at 945-6917.

Sincerely,

  
Tamar E. Haverty

**Attachments**

cc: Meredith Jones  
Alexis Johns

John Logan  
ITS

JoAnn Lucanik

**Certificate of Service**

I hereby certify that on this 18th day of December, 1996, copies of the foregoing Notice of Ex Parte Presentation by MFS Communications Company, Inc. in CS Docket No. 95-184 and attachments, were served via Hand Delivery to the following:

William F. Caton (orig. + 1)  
Secretary  
1919 M Street, NW  
Room 222  
Washington, DC 20554

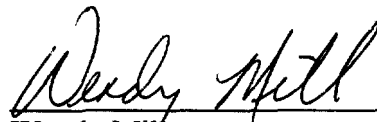
ITS, Inc.  
1919 M Street, NW  
Room 246  
Washington, DC 20554

Alexis D. Johns  
Attorney/Advisor  
Federal Communications Commission  
2033 M Street, NW  
Washington, DC 20554

Meredith Jones  
Chief, Cable Services Division  
Federal Communications Commission  
2033 M Street, NW  
Suite 918  
Washington, DC 20554

John E. Logan  
Deputy Chief  
Federal Communications Commission  
2033 M Street, NW  
Washington, DC 20554

JoAnn Lucanik  
Chief, Policy and Rules  
Federal Communications Commission  
2033 M Street, NW  
Washington, DC 20554

  
Wendy Mills

## **STATE BUILDING ACCESS STATUTES**

### **Conn. Gen Stat. §16-2471<sup>1</sup>**

An owner of an occupied building must allow a telecommunications provider to wire the building and provide service so long as: (1) a tenant of such building request services from that telecommunications provider; (2) the entire cost of such wiring is assumed by that telecommunications provider; (3) the telecommunications provider indemnifies and holds harmless the owner for any damages caused by such wiring; and (4) the telecommunications provider complies with all rules and regulations of the Department of Public Utility Control pertaining to such wiring. The owner of the occupied building may require that the wiring be done in his presence and may approve or deny the location at which such wiring enters the building.

The owner of an occupied building shall not demand or accept payment for permitting a telecommunications provider on or within his property unless the Department approves an application by the owner of the occupied building and the compensation is reasonable for a taking of property associated with the installation of wiring and ancillary facilities.

However, a telecommunications provider may install telecommunications equipment or facilities in an occupied building prior to the Department's determination of reasonable compensation.

Any person, firm or corporation which the Department of Public Utility Control determines, after notice and opportunity for hearing as provided in section 16-41, has failed to comply with any provision of subsection (b) to (e) shall pay to the state a civil penalty of not more than one thousand dollars for each day following the issuance of a final order by the Department pursuant to section 16-41 that the person, firm or corporation fails to comply with said subsection.

### **Texas Utilities Act<sup>2</sup>**

#### **Title III. Telecommunications Utilities**

#### **Section 3.2555 Discrimination**

Section 3.2555(c) of the Texas Public Utility Regulatory Act of 1995 ("Act") provides that a public or private property owner may not interfere with or prevent a properly authorized telecommunications utility from installing on the owner's property telecommunications service facilities requested by a tenant. Subsection (c) also prevents a private property owner from discriminating against one or more telecommunications utilities in relation to the installation, terms,

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<sup>1</sup>This Act can be found in Westlaw by using the find command and searching for CT ST 16-2471.

<sup>2</sup>This Act can be found in Westlaw by using the find command and searching for TX CIV ST Art. 1446c-0.

conditions, and compensation of telecommunications services facilities to a tenant on the owner's property. The private property owner may not demand or accept an unreasonable payment in any form from the tenant or authorized telecommunications utility for allowing the utility on or within the owner's property. However, the private owner may require an authorized telecommunications utility to pay compensation that is reasonable and nondiscriminatory among such telecommunications utilities. The private property owner may also impose reasonable limitations on the number of such telecommunications utilities having access to the owner's property if the owner can demonstrate a space constraint that requires such limitations.

Section 3.2555 of the Act does not provide for damages in the event of a violation of this section. However, section 3.2555(e) gives the Texas Public Utility Commission ("Commission") the jurisdiction necessary to enforce this section.

LLS NO. 97-0172.01 EBD

HOUSE BILL 97-

BY REPRESENTATIVE McPherson

**A BILL FOR AN ACT**

101 **CONCERNING MULTI-UNIT BUILDING ACCESS BY TELECOMMUNICATIONS**  
102 **PROVIDERS.**

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**Bill Summary**

**"Building Access for Telecom Providers"**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)*

Defines "multi-unit building" as a building or a group of buildings that is leased or designed to be occupied by two or more families or businesses and includes condominiums, cooperatives, mobile home parks, nursing homes, and hospitals. Requires building owners and managers to allow each occupant access to the telecommunications services provider of the occupant's choice. Allows the building owner to require reasonable and nondiscriminatory compensation from providers of telecommunications service for granting multi-unit building access. Allows building owners and managers to impose requirements necessary to protect the safety of the property and the safety and security of other persons.

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1 *Be it enacted by the General Assembly of the State of Colorado:*  
2 **SECTION 1.** Part 1 of article 15 of title 40, Colorado Revised  
3 Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION  
4 OF A NEW SECTION to read:  
5 **40-15-103.5. Building access.** (1) AS USED IN THIS SECTION,  
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

1           (a) "MULTI-UNIT BUILDING" MEANS A BUILDING, PART OF A  
2 BUILDING, OR A COLLECTION OF BUILDINGS THAT IS RENTED, LEASED.  
3 OCCUPIED, OR DESIGNED TO BE OCCUPIED AS:

4           (I) THE HOME OF TWO OR MORE FAMILIES OR GROUPS OF  
5 COHABITANTS, EACH OF WHICH FAMILIES OR GROUPS LIVES  
6 INDEPENDENTLY OF THE OTHERS; OR

7           (II) THE PLACE OF BUSINESS OF TWO OR MORE PERSONS  
8 CONDUCTING BUSINESS INDEPENDENTLY OF EACH OTHER; OR

9           (III) COMBINATIONS OF SUCH HOMES AND SUCH PLACES OF  
10 BUSINESS.

11           (b) ~~"MULTI-UNIT BUILDING" INCLUDES, BUT IS NOT LIMITED TO,~~  
12 ~~MOBILE HOME PARKS, NURSING HOMES, HOSPITALS, AND BUILDINGS~~  
13 ~~MANAGED OR CONTROLLED BY COOPERATIVE HOUSING CORPORATIONS~~  
14 ~~AND CONDOMINIUM ASSOCIATIONS.~~

15           (2) NO PERSON OWNING, LEASING, CONTROLLING, OR MANAGING  
16 A MULTI-UNIT BUILDING, REFERRED TO IN THIS SECTION AS A "MANAGER",  
17 SHALL FORBID OR UNREASONABLY RESTRICT ANY OCCUPANT, TENANT, OR  
18 LESSEE OF SUCH BUILDING FROM RECEIVING TELECOMMUNICATIONS  
19 SERVICES FROM ANY PROVIDER AUTHORIZED BY THE PUBLIC UTILITIES  
20 COMMISSION. THE MANAGER MAY REQUIRE FROM ANY SUCH PROVIDER OF  
21 TELECOMMUNICATIONS SERVICE JUST AND REASONABLE COMPENSATION  
22 FOR PURPOSES OF ACCESSING THE BUILDING TO SERVE ANY OCCUPANT,  
23 TENANT, OR LESSEE OR FOR THE USE OF BUILDING FACILITIES. THE  
24 MANAGER SHALL NOT DISCRIMINATE IN MATTERS OF CHARGING  
25 COMPENSATION BETWEEN OR AMONG PROVIDERS OF  
26 TELECOMMUNICATIONS SERVICES NOR IMPOSE UPON ANY PROVIDER OF

1 TELECOMMUNICATIONS SERVICES A GREATER CHARGE FOR COMPENSATION  
2 THAN THAT IMPOSED, IF ANY, ON THE LOCAL EXCHANGE CARRIER  
3 NOTHING IN THIS SECTION SHALL AFFECT THE ABILITY OF A MANAGER TO  
4 IMPOSE, ON A COMPETITIVELY NEUTRAL BASIS, REQUIREMENTS NECESSARY  
5 TO PROTECT THE SAFETY AND SECURITY OF THE PROPERTY AND THE  
6 SAFETY AND CONVENIENCE OF OTHER PERSONS.

7 (3) IN THE EVENT OF A DISPUTE BETWEEN A PROVIDER OF  
8 TELECOMMUNICATIONS SERVICES AND A MANAGER CONCERNING THEIR  
9 OBLIGATIONS UNDER THIS SECTION, THE PROVIDER OR THE MANAGER MAY  
10 APPLY TO THE COMMISSION FOR RESOLUTION OF SUCH DISPUTE. AFTER...  
11 NOTICE AND HEARING, THE COMMISSION SHALL ENTER ITS DECISION  
12 RESOLVING SUCH DISPUTE.

13 **SECTION 2. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.